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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,266	04/03/2001	Kim F. Storm	08204/0203163-US0	7388
38878	7590	11/28/2007		
F5 Networks, Inc. c/o DARBY & DARBY P.C. P.O. BOX 770 Church Street Station NEW YORK, NY 10008-0770			EXAMINER PATEL, HARESH N	
			ART UNIT 2154	PAPER NUMBER
			MAIL DATE 11/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/826,266

Applicant(s)

STORM, KIM F.

Examiner

Haresh Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 and 19-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Claims 12-18 are subject to examination. Claims 1-11 and 19-29 are withdrawn.

Response to Arguments

2. Applicant's remarks/arguments dated 8/6/2007 with respect to amended claims 12-18 have been considered but are moot in view of the new ground(s) of rejection.

3. Regarding the applicant's statements, Col. 8, lines 18-25 of Gai-Cisco clearly states that in order to obtain a router identification, the intermediate device/switch generates and broadcasts a DHCP-DISCOVER message from each of its interfaces (also see block 304, in Figure 3; and Even though Oran-Cisco purportedly discloses the concept of handling direct internet protocol by a network element (PC host motherboard, item 22 in Figures 1 and 2), the network element does not include a direct internet; the examiner respectfully disagrees. The Gai-Cisco's and Oran-Cisco's disclosure are not limited to this. Further, the specification of this application under prosecution at paragraph 18 states, "In the foregoing specification, the invention has been described with reference to specific embodiments thereof. It will, however, be evident that various modifications and changes can be made thereto without departing from the broader spirit and scope of the invention as set forth in the appended claims. The specification and drawings are, accordingly, to be regarded in an illustrative rather than a restrictive sense.

Further, the specification at page 3 further defines the physical subnet etc of the claimed subject matter, i.e., " the physical subnet could be merely the management node coupled directly by an Ethernet cable to a single device", etc.

Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. When reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977). Therefore, the rejection is maintained.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gai et al., 6,697,360, Cisco (Hereinafter Gai-Cisco) in view of Oran et al., 6,204,084, Cisco (Hereinafter Oran-Cisco).

6. As per claim 12, Gai-Cisco discloses a system comprising (col., 6):

a network element including a module (col., 5); and a management node (col., 5) residing at a same physical subnet as the network element (col., 6, col., 14), the management node comprising computer executable instructions that when executed perform actions (col., 15,) including:

forcing the network element to have an unused IP address (col., 15, col., 11) within an access range of the management node (col., 15, col., 16) by identifying the unused IP address within the access range of the management node and broadcasting a broadcast frame including the unused IP address (col., 7, col., 8) to the module without reconfiguring the management node wherein the IP address of the network element is changed to the unused IP address (col., 15, col., 16).

However, Gai-Cisco does not specifically mention that the module handles direct internet protocol.

Oran-Cisco discloses the well-known concept of the module handling direct internet protocol (col., 1, col., 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Gai-Cisco with the teachings of Oran-Cisco in order to facilitate usage of the direct internet protocol module because it would enhance handling IP

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protocol packets. The well-known concept of handling the packets using the direct internet protocol would avoid relying on other network devices for performing packet processing and would support handling timely processing of network traffic (col., 1, col., 3).

Note: Regarding the applicant's usage of "wherein" and/or "whereby" in the claimed subject matter of the claims, the claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure. Please see *Minton v. Nat 'l Ass 'n of Securities Dealers, Inc.*, 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003)), MPEP 2111.

Note: The specification of this application under prosecution, paragraph 18 states, "In the foregoing specification, the invention has been described with reference to specific embodiments thereof. It will, however, be evident that various modifications and changes can be made thereto without departing from the broader spirit and scope of the invention as set forth in the appended claims. The specification and drawings are, accordingly, to be regarded in an illustrative rather than a restrictive sense".

7. As per claim 13, Gai-Cisco and Oran-Cisco discloses the claimed limitations as rejected under claim 12. Gai-Cisco also discloses wherein the management node and the network element are coupled together by an Ethernet connection (col., 2, col., 7).

8. Referring to claim 18, Gai-Cisco and Oran-Cisco disclose the claimed limitations as rejected under claim 12. Gai-Cisco also discloses wherein the management node uses higher

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level protocols (col., 2, col., 7) to manage the network element immediately after forcing the address (col., 15, col., 16).

9. Claims 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gai-Cisco and Oran-Cisco in view of Ullmann et al., IBM, 2002/0172222 (Hereinafter Ullmann-IBM).

10. Referring to claim 14, Gai-Cisco and Oran-Cisco discloses the claimed limitations as rejected under claim 12. However, Gai-Cisco and Oran-Cisco do not specifically mention about usage of a packet filter to snoop packets arriving at a hardware layer of a protocol stack.

Ullmann-IBM discloses the well-known concept of having a packet filter to snoop packets arriving at a hardware layer of a protocol stack (e.g., paragraphs 131 and 152).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Gai-Cisco and Oran-Cisco with the teachings of Ullmann-IBM in order to facilitate having a packet filter to snoop packets arriving at a hardware layer of a protocol stack because the filter would support defining parameters for the types and sizes of the packets to be snooped such as all packets associated with particular endpoints or only certain types of packets. The handling of the parameters of the packets would support processing the information contained in the packets.

11. Referring to claim 17, Gai-Cisco and Oran-Cisco disclose the claimed limitations as rejected under claim 12. However, Gai-Cisco and Oran-Cisco do not specifically mention the module receives frames directed to a predefined port independent of a protocol address.

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Ullmann-IBM discloses a well-known concept of having a module to receive frames directed to a predefined port independent of a protocol address (e.g., paragraphs 16 and 152, figures 2F and 2G).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Gai-Cisco and Oran-Cisco with the teachings of Ullmann-IBM in order to facilitate having a module to receive frames directed to a predefined port independent of a protocol address because the port would support providing content of the frames to the module regarding the protocol address. The protocol address would support communicating information to the network device.

12. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gai-Cisco and Oran-Cisco in view of Fuoco et al., 6,594,713, Texas Instruments (Hereinafter Fuoco-Texas).

13. Referring to claims 15 and 16, Gai-Cisco and Oran-Cisco disclose the claimed limitations as rejected under claim 12. Oran-Cisco also discloses usage of different ports for Ethernet connection and WAN (internet) and leasing IP address for predetermined amount of time and not forcing new IP address during the lease time col., 9. However, Gai-Cisco and Oran-Cisco do not specifically mention about an external port and an internal port, wherein the direct access module is only enabled on the internal port, wherein the direct access module is disabled a finite predetermined amount of time after power up.

Fuoco-Texas discloses usage of an external port and an internal port (e.g., col., 1), wherein the direct access module is only enabled on the internal port (e.g., figures 1, 3, 10, col.,

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8), wherein the direct access module is disabled a finite predetermined amount of time of time after power up (e.g., figures 1, 3, 10, col., 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Gai-Cisco and Oran-Cisco with the teachings of Fuoco-Texas in order to facilitate usage of the internal port, the external port and the disabling a finite predetermined amount of time after power up because the external port would support communicating to the external devices. The internal port would support providing information to the network entity using internal connection. The well-known concept of disabling the module that is no longer required would support saving power. Upon power up the module would support assigning the IP address and after the IP address is assigned, the disabling of the module would support reducing overall power consumption of the network device.

Conclusion

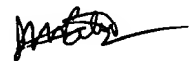
Examiner has cited particular columns and line numbers and/or paragraphs and/or sections and/or page numbers in the reference(s) as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety, as potentially teaching, all or part of the claimed invention, as well as the context of the passage, as taught by the prior art or disclosed by the Examiner.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HARESH PATEL

PRIMARY EXAMINER

November 23, 2007